

E-FILED: 02/09/22 12:14 PM
CY: 02/09/22 C-360
Berkeley County Circuit Clerk
West Virginia

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

CHRISTOPHER L. WOJDAG,

Plaintiff,

v.

Civil Action No. 21-C-_____

Judge:

**SCHNEIDER NATIONAL CARRIERS, INC.,
CT CORPORATION SYSTEM, Registered Agent
5098 Washington Street, Suite 407
Charleston, WV 25313,**

and

**NELSON B. GARCIA, JR.,
3920 Broadway #5
New York, NY 10032,**

Defendants.

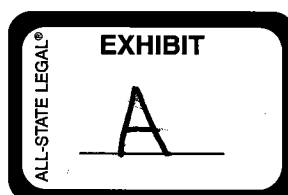
COMPLAINT

COMES NOW Christopher L. Wojdag (hereinafter "Plaintiff"), by counsel, and in support of his Complaint for judgment against the Defendants Schneider National Carriers, Inc., (hereinafter "Defendant Schneider") and Nelson B. Garcia, Jr. (hereinafter "Defendant Garcia"), cumulatively "Defendants", states the following:

DEFENDANTS

1. At all times relevant to this action, Defendant Schneider was a corporation organized and existing under the laws of the State of Wisconsin, and whose primary place of business 3101 S. Packerland Drive, Green Bay, WI 54313.

2. At all times relevant to this action, Defendant Schneider was a corporation doing business in West Virginia and may be served through its registered agent, CT Corporation System, 5098 Washington Street, Suite 407, Charleston, WV 25313.



3. At all times relevant to this action, Defendant Schneider was a motor carrier licensed by and registered with the Federal Motor Carrier Safety Administration.

4. At all times relevant to this action, Defendant Garcia was employed as a truck driver by Defendant Schneider.

5. At all times relevant to this action, Defendant Garcia was acting within the course and scope of his employment with Defendant Schneider.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this matter pursuant to W. Va. Code § 51-2-2. Furthermore, Defendants availed themselves to the jurisdiction of this Court pursuant to W. Va. Code § 56-3-33 and W. Va. Code § 31D-15-1501(d)(3) by committing, personally and/or through their agents, a tortious act within this state by causing injury to the Plaintiff through their negligence.

7. Venue is appropriate in this Court pursuant to W. Va. Code § 56-1-1(a)(2) because the incident giving rise to this litigation occurred in Berkeley County, West Virginia.

FACTS

8. On or about December 24, 2019, Plaintiff was driving his tractor trailer southbound in the right lane of Interstate 81 in Berkeley County, West Virginia.

9. At approximately the same time and place, Defendant Garcia was driving his tractor trailer southbound on Interstate 81 in Berkeley County, West Virginia, directly behind Plaintiff's tractor trailer.

10. At approximately the same time and place, a vehicle was disabled and was affecting the flow of traffic in the right lane of the roadway.

11. Seeing the disabled vehicle, Plaintiff merged into the left lane and came to a complete stop behind stopped traffic.

12. At approximately the same time and place, Defendant Garcia began merging into the left lane behind Plaintiff.

13. Defendant Garcia failed to stop his tractor trailer and collided with the rear end of Plaintiff's tractor trailer.

14. Defendant Garcia was subsequently charged with a violation of West Virginia Code §17C-6-1 – failure to maintain control of his vehicle.

15. At all times relevant to this action, Defendants had a duty to follow the traffic laws, codes and regulations of West Virginia, and the provisions of the Federal Motor Carrier Safety Regulations (hereinafter “FMCSR”); to operate the vehicle with due regard for the safety of others using the roadways, and to act as a reasonable person and/or professional driver would act under circumstances then and there existing.

16. As a direct and proximate result of Defendants' negligence, Plaintiff was injured and incurred damages as outlined below.

**COUNT I
NEGLIGENCE OF NELSON B. GARCIA JR.**

17. All preceding allegations are incorporated herein by reference.

18. Notwithstanding the duties stated above, Defendant Garcia negligently:

- a. failed to keep a proper and diligent lookout;
- b. failed to maintain control of his vehicle;
- c. failed to operate the tractor-trailer in accord with generally accepted safety principles and practices of the trucking industry, West Virginia law, and the FMCSR;

- d. failed to operate the tractor-trailer as a reasonable and prudent person and/or professional driver under the circumstances; and
- e. and such other breaches of duty as may become apparent throughout the course of discovery.

COUNT II
VICARIOUS LIABILITY – *RESPONDEAT SUPERIOR*
SCHNEIDER NATIONAL CARRIERS, INC.

19. All preceding allegations are incorporated herein by reference.

20. At all times relevant to this action, Defendant Garcia was Schneider's agent, employee, and/or servant and was acting within the course and scope of his employment with Schneider.

21. Accordingly, Defendant Schneider is vicariously liable for Defendant Garcia's negligence under the doctrine of *respondeat superior*.

22. Irrespective of the employment relationship, Defendant Schneider is an interstate motor carrier subject to Federal Motor Carrier Safety Administration Regulations and is, therefore, responsible for the negligent acts of Defendant Garcia.

DAMAGES

23. As a direct and proximate result of the negligence of Defendants, Plaintiff has suffered in the past, suffers in the present, and will continue to suffer into the future: pain; bodily injuries; anxiety related to his physical pain and injuries; worry related to his physical pain and injuries; inability to conduct his business; inability to conduct his activities of enjoyment; lost wages and other income, lost future wages and other income, and lost the capacity to earn future wages and other income, medical treatment; medical bills; inconvenience; and other forms of damage as enumerated in W.Va. P.J.I. § 801.

WHEREFORE, Plaintiff Christopher L. Wojdag, by counsel, requests that this Court enter judgment in his favor against the Defendants, Schneider National Carriers, Inc. and Nelson B. Garcia, Jr., for such an amount as will be determined by a jury according to the laws of the State of West Virginia, including compensatory damages, pre-judgment and post-judgment interest, reasonable costs, attorney's fees, and for such other relief as the Court may deem just and proper.

TRIAL BY JURY IS DEMANDED.

CHRISTOPHER L. WOJDAG
By Counsel

/s/ M. Bryan Slaughter
M. Bryan Slaughter, Esquire (WVSB No. 7655)
MICHIEHAMLETT
310 4th Street NE, 2nd Floor
P.O. Box 298
Charlottesville, VA 22902
(434) 951-7200 (Phone)
(434) 951-6464 (Facsimile)
bslaughter@michiehamlett.com

Counsel for Plaintiff